

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WA.No. 408 of 2005

AGAINST THE JUDGEMENT IN WPC.34745/2004 Dated 20/01/2005
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APPELLANT: PETITIONER

P.K.ABDULRAHIMAN,
SHAKEELA NIVAS, TALIKULAM P.O.,
THRISSUR DISTRICT.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS: RESPONDENTS

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1. STATE OF KERALA REPRESENTED BY
SECRETARY TO GOVT., REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.
 2. TAHSILDAR (ASSESSING AUTHORITY),
TALUK OFFICE, CHAVAKKAD, THRISSUR DISTRICT.

BY SENIOR GOVERNMENT PLEADER SRI M.R.SABU

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

W.A.No.408 of 2005

Dated, this the 27th day of June, 2007

JUDGMENT

H.L. DATTU, C.J.

This appeal is directed against the orders passed by the learned Single Judge in W.P.(C) No.34745 of 2004 dated 20th January, 2005. By the impugned order the learned Judge has only directed the petitioner to file an appeal as provided under the provisions of the Kerala Building Tax Act. The learned Judge has also directed the petitioner to deposit 25% of the amount demanded by the 2nd respondent as a condition precedent before filing the appeal.

2. Ext.P7 is the order of assessment passed by the Tahsildar. If for any reason the petitioner is aggrieved by the said order, necessarily and naturally he should file an appeal before the appellate authority as provided under the Act. Without doing so, the petitioner has approached this court by filing the writ petition. Keeping all these aspects in view, the learned Judge has disposed of the writ petition.

3. We do not see any error in the order passed by the learned Single Judge which calls for our interference in this appeal. Accordingly this appeal requires to be rejected. However, we make it clear that the 25% of the amount that may be paid by the petitioner while filing the appeal shall be refunded to the petitioner in the event the petitioner

succeeds in the appeal.

We dispose of this writ appeal with permission to the petitioner to file an appeal as directed by the learned Single Judge within four weeks from today. If such an appeal is filed within the time granted by this court, the appellate authority shall decide the matter on merits without referring to the period of limitation. All the contentions are left open. Ordered accordingly.

**H.L. DATTU,
CHIEF JUSTICE.**

**K.T. SANKARAN,
JUDGE.**

mt / DK.